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Paper No.

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OFFICE OF PETITIONS

In re Application of	:	
Eric Bornstein	:	DECISION ON APPLICATION
Application No. 10/821,442	:	FOR
Filed: April 9, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. BORNE40606	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 1.705(b) filed June 19, 2008. Applicants request that the initial determination of patent term adjustment be corrected from zero (0) days to one hundred fifty-four (154) days.

The application for patent term adjustment (PTA) is **GRANTED to the extent indicated herein.**

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is ONE HUNDRED NINE (109) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On June 30, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. Applicants maintain entitlement to 154 days of patent term adjustment at the time of the mailing of the notice of allowance.

The application history has been reviewed and it has been determined that the correct patent term adjustment at the time of the mailing of the notice of allowance is 109 days. This

calculation is based on the following additions to the patent term adjustment calculation:

- A period of adjustment of 398 days is being entered for the Office taking until June 30, 2008 to mail a response to applicants to the request for continued examination (RCE) filed January 29, 2007. See 1.703(a)(2).

Moreover, a review of the record confirms bases for entry of periods of reduction. 37 CFR 1.704(c) provides, in pertinent part, that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;


- Pursuant to 1.704(c)(8), a period of reduction of 46 days is being entered for applicant filing an Information Disclosure Statement (IDS) on March 16, 2007, after having filed the RCE on January 29, 2007. This supplemental paper was not expressly requested by the examiner. Further, the IDS did not include a 1.704(d) statement. Accordingly, entry of a period of reduction of 46 days is warranted.
- Likewise, a period of reduction of 28 days is being entered for applicant filing an amendment on April 13, 2007, after having filed the IDS on March 16, 2007. This supplemental paper was not expressly requested by the examiner. Accordingly, entry of a period of reduction of 28 days is warranted.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is ONE HUNDRED NINE (109) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PALM calculation

Day : Saturday
Date: 11/8/2008

PALM INTRANET

Time: 07:45:52

PTA Calculations for Application: 10/821442

Application Filing Date:	04/09/2004	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	215
Post-Issue Petitions:	0	Total PTA (days):	109
PTO Delay Adjustment:	324		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
102	11/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	398		
101	11/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		73	
100	11/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	73		
99	11/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		28	
98	11/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		46	
94	06/30/2008	MAIL CORRECTED NOTICE OF ALLOWANCE			
93	06/30/2008	CORRECTED NOTICE OF ALLOWANCE			
92	06/19/2008	ISSUE FEE PAYMENT RECEIVED			
91	05/28/2008	MAILING CORRECTED NOTICE OF ALLOWABILITY			
90	05/28/2008	CORRECTED NOTICE OF ALLOWABILITY			
89	05/28/2008	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
88	05/28/2008	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
87	05/28/2008	PETITION TO REVIVE APPLICATION - GRANTED			
86	05/27/2008	WITHDRAW PUBLICATION/PRE-EXAM ABANDON			
85	03/24/2008	MAIL-PETITION DECISION - DISMISSED			
84	03/24/2008	PETITION DECISION - DISMISSED			
83	02/13/2008	PETITION ENTERED			
82	03/24/2008	MAIL-PETITION DECISION - DISMISSED			
81	03/24/2008	PETITION DECISION - DISMISSED			
80	03/20/2008	CORRESPONDENCE ADDRESS CHANGE			
79	02/13/2008	PETITION ENTERED			
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77	10/19/2007	FINISHED INITIAL DATA CAPTURE			
76	10/22/2007	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
75	10/02/2007	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
74	10/22/2007	RESPONSE TO AMENDMENT UNDER RULE 312			
73	10/04/2007	WORKFLOW - QUERY REQUEST - FINISH			
72	09/28/2007	TC RETURN TO PUBS			
71	09/28/2007	MAIL EXAMINER'S AMENDMENT			
70	09/26/2007	TC RETURN TO PUBS			
69	09/26/2007	EXAMINER'S AMENDMENT COMMUNICATION			
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67	08/22/2007	WORKFLOW - QUERY REQUEST - BEGIN			
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64	08/10/2007	MAILING CORRECTED NOTICE OF ALLOWABILITY			
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55	04/19/2007	MAIL NOTICE OF ALLOWANCE			
54	04/19/2007	MAIL EXAMINER'S AMENDMENT			
53	04/19/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
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51	04/12/2007	ISSUE REVISION COMPLETED			
50	04/12/2007	DOCUMENT VERIFICATION			
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48	04/12/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
47	04/02/2007	NOTICE OF ALLOWABILITY			
46	03/16/2007	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
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44	03/16/2007	REFERENCE CAPTURE ON IDS			
43.7	03/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	03/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) ' FILED			
42	02/06/2007	DATE FORWARDED TO EXAMINER			
41	01/29/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
40	02/06/2007	DATE FORWARDED TO EXAMINER			
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38	02/06/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
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36	01/29/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
35.7	11/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	11/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	09/27/2006	MAIL FINAL REJECTION (PTOL - 326)			
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17	06/17/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
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13	09/22/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	06/23/2004	APPLICATION RETURN FROM OIPE			
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10	06/22/2004	APPLICATION RETURN FROM OIPE			
9	06/23/2004	APPLICATION IS NOW COMPLETE			
8	06/22/2004	APPLICATION RETURN TO OIPE			
7	06/22/2004	APPLICATION DISPATCHED FROM OIPE			
6	06/23/2004	APPLICATION IS NOW COMPLETE			
5	05/25/2004	CLEARED BY L&R (LARS)			
4	05/12/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	05/12/2004	CASE CLASSIFIED BY OIPE			
2	04/22/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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